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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,472	09/10/2003	Hidekazu Miyairi	740756-2650	4070

22204 7590 02/26/2007  
NIXON PEABODY, LLP  
401 9TH STREET, NW  
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WASHINGTON, DC 20004-2128

EXAMINER
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NGUYEN, PHILLIP

ART UNIT	PAPER NUMBER
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2828

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/658,472	<b>Applicant(s)</b> MIYAIRI ET AL.	
	<b>Examiner</b> Phillip Nguyen	<b>Art Unit</b> 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,17,19,20 and 22 is/are allowed.
- 6) ☒ Claim(s) 2 and 21 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/3/07 and 12/14/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS), submitted on 1/3/07 and 12/14/06, are considered by the examiner.

### ***Response to Arguments***

2. Applicant's arguments filed 12/14/2006 have been fully considered but they are not totally persuasive and in error.

With respect to claim 2, applicant argues that Nagaishi et al. (US Patent 5544182) does not teach, at least, that the signal processing unit subjects the first electric signal and second electric signal to a signal processing to grasp a state of energy fluctuation to the laser beam whose energy has been adjusted by the amount adjuster which Examiner strongly disagrees.

Fig. 1 from Nagaishi clearly shows that the signal processing unit 4 which is a computer receives sampled/detected signal from sensor 31 before it enter the attenuator 2 and further receives another sampled/detected signal from a second sensor 32 after light passing through the attenuator 2. Nagaishi further discloses in the specification at col. 3, lines 5-13 and lines 50-54 how the attenuator is controlled by subjecting two signals from front and back sensors 31 and 32 with computer 4. It is believed that even though Nagaishi does not teach word by word as the claim 2 but the information shows enough evidence that the claimed invention is anticipated by Nagaishi.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nagaishi et al. (US Patent No. 5544182).

Claim 2 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nagaishi et al (US Patent No. 5544182). Nagaishi discloses a laser apparatus comprising a laser oscillator 2; a light amount adjuster 2 for adjusting an energy of an incident laser beam by changing a transmittance thereof; a driver 4 for controlling the transmittance of the light amount adjuster 2; an entrance side optical system 71 for sampling a part of the laser beam that enters the light amount adjuster 2; a first electric signal generator 31 for generating a first electric signal that contains as a data an energy fluctuation of the laser beam that enters the light amount adjuster using a part of the laser beam sampled by the entrance side optical system 71; an exit side optical system 72 for sampling a part of a laser beam of which the energy has been adjusted by the light amount adjuster; a second electric signal generator 32 for generating a second electric signal that contains as a data an energy fluctuation of the laser beam of which the energy has been adjusted by the light amount adjuster using the part of the laser beam sampled by the exit side optical system; and a signal processing unit 4 for subjecting the first electric signal and the second electric signal to a signal processing to grasp a state of the energy fluctuation of the laser beam

Art Unit: 2828

that enters the light amount adjuster as well as a state of the energy fluctuation of the laser beam whose energy has been adjusted by the light amount adjuster. It is noted that Nagaishi discloses the computer 4 which controls the light amount adjuster (attenuator) so therefore it is inherent to have an attenuator driver.

With respect to claim 21, Nagaishi further discloses a stage 17 wherein the stage is located that a substrate 16 over the stage is irradiated with the laser beam which has transmitted through the exit side optical system.

*Allowable Subject Matter*

4. Claims 1, 17, and 19 are allowed.

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 2828

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Communication Information***


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Nguyen whose telephone number is 571-272-1947. The examiner can normally be reached on 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MINSUN HARVEY, can be reached on 571-272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phillip Nguyen/

AU 2828

  
MINSUN OH HARVEY  
PRIMARY EXAMINER